IN THE HIGH COURT OF KERALA AT ERNAKULAM
PRESENT :

THE HONOURABLE MR. JUSTICE R.BASANT

WEDNESDAY, THE 11TH APRIL 2007 / 21ST CHAITHRA 1929

Crl.MC.No. 218 of 2006(B)

CMP.2859/2004 of CHIEF JUDICIAL MAGISTRATE COURT, KOLLAM
CRIME NO.78 OF 2004 OF KOLLAM WEST POLICE STATION
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PETITIONER:
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1. GEORGE GONZALVES, SANKET VAYALIL THODU,
POLAYATHODU, KOLLAM.

2. NAZARUDDIN, KURAVANATH VEEDU,
KUNTUVANCHERRY, ADICHANALLOOR, KOLLAM.

3. HARI P, SON OF PARAMESWARAN PILLAI,
CHARUVILA PUTHEN VEEDU, VENDAR.P.O,
KOTTARAKKARA.

BY ADV. SRI.JOHNSON GOMEZ

RESPONDENTS:
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1. THE STATE OF KERALA, REPRESENTED BY
THE PUBLIC PROSECUTOR,
HIGH COURT OF KERALA, THROUGH THE SUB INSPECTOR
OF POLICE, WEST POLICE STATION, KOLLAM.

2. SRI.JOHNSON, SON OF SAMUEL,
PLANTHOTTATHIL, KONNITHAZHAM, CHENGARA,
PATHANAMTHITTA.

3. SRI.V.ASHOKAN,
ASWATHY(SAKTHI) FINANCE,
KAYAMKULAM.

4. THE REGIONALTRANSPORT OFFICER,
KOLLAM.

R3 BY ADV. SRI.K.R.SUNIL
R2 BY ADV. R.SANTHOSH BABU
PUBLIC PROSECUTOR SRI.GIKKU JACOB

THIS CRIMINAL MISC. CASE HAVING BEEN FINALLY HEARD ON 11/04/2007, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

R.BASANT, J

Crl.M.C.No.218 of 2006

Dated this the 11th day of April, 2007

ORDER

The 1st petitioner is the registered owner of a vehicle. The 2nd and 3rd petitioners do only claim under the 1st petitioner. The registration certificate in respect of that vehicle is now in the custody of the court. The 1st petitioner applied for release of the registration certificate in his favour. By the impugned order, copy of which is produced as Annexure-A4, that petition was dismissed. The petitioners have come to this Court claiming to be aggrieved by Annexure-A4 order. According to them, without any dispute, the 1st petitioner is the registered owner of the vehicle. He had sold the vehicle to the 2nd petitioner and the 2nd petitioner in turn had sold the vehicle to the 3rd petitioner. All of them together are now claiming return of the registration certificate and the common prayer is only that the registration certificate may be released to the 1st petitioner.

2. A crime has been registered in the matter on the basis of a complaint filed by the Regional Transport Officer. The Regional Transport Officer had filed the said complaint because he had received two applications, both allegedly submitted by the 1st petitioner for transfer of the vehicle to two different persons. It is hence that the complaint was filed by the Regional Transport Officer

before the police. In the F.I.R, only the 3rd respondent is shown as the accused. The complaint of the Regional Transport Officer shows that an earlier application was received by him, in which it is reported that the 1st petitioner had sold the vehicle to the 2nd respondent. There were also indications to suggest that the 2nd respondent had pledged the vehicle to the 3rd respondent. It is, in these circumstances, that the Regional Transport Officer entertained the suspicion that a forged registration certificate has been manufactured in respect of the vehicle.

3. The 2nd and 3rd respondents have been served. They have entered appearance before me, but they have not filed any counter statement nor are they represented before me at the stage of arguments. The complaint of the Regional Transport Officer clearly shows that the 2nd and 3rd respondents had not produced any documents before the Regional Transport Officer to show their rights, if any, in respect of the vehicle.

4. The learned counsel for the petitioners submits that the petitioners are in need of the registration certificate now because the vehicle is in the possession of the Beed Police Station, Maharashtra. To secure their interests, they have to claim release of the vehicle, for which purpose, they want the registration certificate to be made available. In these circumstances, it is prayed that without any

further delay, the registration certificate may be ordered to be released in favour of the petitioners.

5. The 1st petitioner is the registered owner of the vehicle. Admittedly the original registration certificate was issued to him. Though the 2nd and 3rd petitioners appear to stake claim for the vehicle, they also claim only through the 1st petitioner herein. The 2nd and 3rd respondents have not produced any documents or the registration certificate before the Regional Transport Officer to prove their right in respect of the vehicle. Before me, the 2nd and 3rd respondents have not chosen to advance any contentions or stake any claim.

6. The learned Public Prosecutor, in these circumstances, submits that subject to appropriate safeguards including the direction that the registration certificate must be produced back before court within a stipulated time, the registration certificate can be ordered to be released to the petitioners.

7. I am satisfied, in these circumstances, that appropriate directions for release of the registration certificate to the 1st petitioner can be ordered.

8. In the result, this Crl.M.C is, allowed. The registration certificate, which is now in the custody of the court, shall be released to the 1st petitioner on the following terms and conditions.

i) All the three petitioners shall execute a bond for Rs.5 lakhs with two solvent sureties each for the like sum to the satisfaction of the learned Magistrate undertaking to produce back the registration certificate before the learned Magistrate within a period of three months from the date on which the registration certificate is released to him.

ii) The certified photocopy of the registration certificate shall be obtained from court and produced before release of the registration certificate is released.

(R.BASANT, JUDGE)

rtr/-